

USDC SDNY DOCUMENT ELECTRONICALLY FILED DOC #: DATE FILED: <u>3/14/13</u>
---

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X	:	
THOMAS SMITH,	:	12 Civ. 4279 (LAP)
	:	
Plaintiff,	:	
	:	<u>ORDER</u>
v.	:	
	:	
ALLIED INTERSTATE, INC.,	:	
	:	
Defendant.	:	
-----X	:	

LORETTA A. PRESKA, Chief United States District Judge:

On September 4, 2012, Plaintiff filed a motion seeking attorneys' fees and costs incurred in connection with Plaintiff's action brought under the Fair Debt Collection Practices Act, 15 U.S.C. § 1692, et seq., ("FDCPA"). Plaintiff has accepted a modest offer of judgment made by Allied Interstate, Inc. The offer of judgment included reasonable costs and attorneys' fees. Plaintiff seeks \$3,463.50 in fees and costs.

The Court referred the attorneys' fees motion to Magistrate Judge Freeman, who issued a Report and Recommendation on January 30, 2013 (the "Report") which considered and assessed the detailed time records provided by the Kimmel Firm. The Report recommended that Plaintiff be awarded \$1,172.50 in fees and \$350

in costs, for a total award of \$1,522.50.<sup>1</sup> (Report at 59.) The Report advised that the parties shall have fourteen days from service of the Report to file written objections. Neither party submitted any objections to the Report. For the reasons set forth below, the Court adopts the Report in its entirety.

A district court may adopt portions of a magistrate's report to which "no specific, written objection" is made, as long as those sections are not clearly erroneous. See Fed.R.Civ.P. 72(b); Thomas v. Arn, 474 U.S. 140, 149 (1985). A district judge may accept, reject, or modify, in whole or in part, the findings and recommendation of the magistrate. See DeLuca v. Lord, 858 F.Supp. 1330, 1345 (S.D.N.Y. 1994).

The Report is not clearly erroneous. Magistrate Judge Freeman's determinations are supported by the law and the record in all material respects. Magistrate Judge Freeman used the "lodestar" method, which is arrived at by multiplying "the number of hours reasonably expended on the litigation . . . by a reasonable hourly rate," Hensley v. Eckerhart, 461 U.S. 424 (1983), to evaluate Plaintiff's request for attorneys' fees and

---

<sup>1</sup> In the Report, Magistrate Judge Freeman recommended awarding "\$1,172.50 in fees and \$350 in costs, for a total award of \$1,722.50." (Report at 59.) The recommended amounts are well-reasoned and appropriate, but the Court notes that the sum of the numbers is \$1,522.50 not \$1,722.50 and it appears to be a simple error.

costs and modified the requested amount from \$3,463.50 to \$1,522.50.

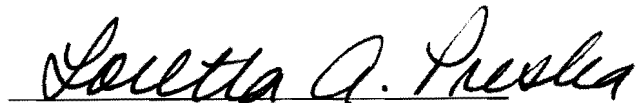
For the reasons stated herein, the Court adopts the Report in its entirety.

Plaintiff's motion [dkt. no. 16] is GRANTED and the Clerk of the Court is respectfully requested to enter judgment for Plaintiff in the amount of \$1,522.50.

SO ORDERED.

Dated: New York, New York

March 11, 2013

A handwritten signature in black ink, reading "Loretta A. Preska", written over a horizontal line.

LORETTA A. PRESKA,

CHIEF U.S.D.J.